

# HOME & COMMUNITY- BASED SETTINGS RULE

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Wherever you see this logo



on a slide, it means language has been directly taken from materials available from the Centers for Medicare and Medicaid Services (CMS)

# CMS Intent of the Final Rule

- To ensure that individuals receiving long-term services and supports through home and community-based service (HCBS) programs under the 1915(c), 1915(i), and 1915(k) Medicaid authorities **have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate**
- To **enhance the quality** of HCBS and **provide protections** to participants

# Some of the Highlights

- Aligns HCBS setting requirements across three Medicaid authorities
- Defines person-centered planning requirements
- Permits combining multiple target populations into one 1915(c) waiver
- New compliance options for 1915(c) waiver programs, not just approve/deny
- Establishes five-year renewal cycle to align concurrent authorities

# We will address:

- Key requirements of the Home and Community-Based Services settings requirements
- Overview of CMS state transition plan to come into compliance with the Home and Community-Based Services settings requirements

# Final Rule

## CMS 2249-F and CMS 2296-F

- Published in the Federal Register on January 16, 2014
- Effective March 17, 2014

# HCB Settings Requirements

- Part 1 - Home and community-based services settings requirements
- Part 2 - Overview of the Michigan Statewide Transition Plan to meet the home and community-based settings requirements from CMS

# The Home and Community-Based Settings Rule

**Part 1: Home and community-based services settings  
requirements**



# Home and Community-Based Settings Requirements

- The final rule from the federal government establishes definitions for:
  - Settings that **are not** home and community-based
  - Settings **presumed not** to be home and community-based
  - State compliance and transition requirements
  - Requirements of the features of home and community-based settings including allowing the Secretary of Health & Human Services to determine additional features

# Settings Where the Rule Applies

- Rule **will apply to all settings (residential and non-residential) where home and community-based services are delivered** – not just the place where the person lives, such as:
  - Residential group home
  - Adult foster care
  - Home for the aged
- But also:
  - Day programs
  - Workshops
  - Prevocational Centers

# Home and Community-Based Settings Features

- The Home and Community-Based setting:
  - **Is involved in, and supports access to** the rest of the community
  - Provides opportunity for person to
    - **look for paid work**
    - **connect with community life**, and
    - **control personal assets**
  - Makes sure that the person who is receiving services has the same degree of access as people who are not receiving home and community-based services

# Home and Community-Based Settings Requirements

- Settings that are **NOT** Home and Community-Based:
  - Nursing facilities
  - Institutions for people with mental diseases
  - Intermediate care facilities for individuals with intellectual disabilities
  - Hospitals

# Home and Community-Based Settings Requirements

- Settings that are **PRESUMED NOT TO BE** Home and Community-Based:
  - Settings that are in a publicly or privately-owned **facility providing inpatient treatment**
  - Settings that **are on the grounds of, or next to**, a public institution
  - Settings **that separate people receiving Medicaid home and community-based services from people not receiving Medicaid home and community-based services**

# Home and Community-Based Settings Requirements

- The State can make a case to the federal government that a setting **PRESUMED NOT TO BE** Home and Community-Based, actually does meet the requirements. A setting such as this may be approved if:
  - The **state** submits evidence (**including public input**) showing that the setting
    - has the qualities of a home and community-based setting and
    - does NOT have the qualities of an institution; AND
  - The **federal government** finds, based on a **review** of the evidence, that the setting
    - meets the requirements for home and community-based settings and
    - does NOT have the qualities of an institution

# Home and Community-Based Settings Features

- Picked by the person from among different options, including non-disability specific settings
- The state must make sure there is an **option for a private unit** in a residential setting

# Person-Centered Service Plans

- **Person-centered service plans** record choices based on the person's
  - needs
  - preferences
  - the persons resources (for residential settings)



# Intent of the Rule

- Protects a persons **rights of privacy, dignity, respect, and freedom from influence and control**
- Supports **independence in making life choices**
- Helps **a person choose services and supports, and who provides them**

# Additional Requirements for Provider-Owned/Controlled Settings

- The person has a **lease or other legal agreement** providing the same protections as a person not receiving home and community-based services
- The person has **privacy including lockable doors**, choice of **roommates**, and freedom to **furnish or decorate the unit**

# Additional Requirements for Provider-Owned/Controlled Settings

- The person has the **freedom and ability to control their schedules and activities, including access to food** at any time
- The person may **have visitors at any time**
- Setting is **physically accessible** to the person

# Additional Requirements for Provider-Owned/Controlled Settings

- Changes to the additional requirements must be:
  - Supported by specific need
  - Written in the person-centered plan
- The change is **required to meet the person's needs, not the setting's requirements**

# Additional Requirements for Person-Centered Plan

- Explanation in the person-centered plan includes:
  - The **person's specific need** for the change
  - **Prior actions and supports** including less intrusive ways to support
  - Explanation of **condition equal to need**
  - **Ongoing data measuring** success of change
  - **Regular check** of the changes
  - Person's **permission**
  - Guarantee that changes **will not cause harm**

# Home and Community-Based Settings Rule Recap

- The “test” for any home and community-based setting will include:
  - **the features of** the setting that make it home and community-based
  - and*
  - how the **person receiving home and community-based services is involved in** the community **compared to other people in the community** who do not receive home and community-based services

# Michigan Statewide Transition Plan

**Part 2: Overview of the Michigan Statewide Transition Plan  
to meet the home and community-based settings  
requirements from CMS**



# Michigan Home and Community-Based Services Waivers

- Children's Waiver Program
- Children with Severe Emotional Disturbances Waiver
- MI Choice Program
- Habilitation Supports Waiver
- MI Health Link Program



# Michigan Home and Community-Based Services Waivers Status

- The Michigan Department of Community Health is not required to submit transition plans for the Children with Severe Emotional Disturbances Waiver or Children's Waiver Program
- These waivers were not amended or changed during the transition period
- The Michigan Department of Community Health has reviewed the settings involved in these waivers and determined that these settings are Home and Community-Based and therefore compliant with the rule

# Michigan Home and Community-Based Services Waivers Status

- The Michigan Department of Community Health has submitted amendments for the Habilitation Supports Waiver and MI Choice Waiver
- As part of these amendments, transition plans for setting compliance were submitted along with both waivers
- Elements of those transition plans will be incorporated into the statewide transition plan

# Michigan Home and Community-Based Services Waivers Status

- The Department submitted an application for a new MI Health Link Waiver
- Since the waiver application was submitted during the transition period, settings must be in immediate compliance with the rule on the program's start date
- A transition plan is only required for new waivers and not for existing waivers

# Federal Timelines

- Amendments for the Habilitation Supports Waiver and MI Choice Waiver were necessary and were submitted September 30, 2014. Transition plans specific to those waivers were submitted with the amendments.
- Within **120 days** of first renewal or amendment request, the State is required to submit a transition plan explaining how the state will meet the settings requirements for **ALL** home and community-based waivers.
- The Statewide transition plan is due January 16, 2015.

# Statewide Transition Plan

The Michigan Plan must contain the following elements:

## 1. Assessment

- Assess whether State regulations or licensure conflict with the rule
- Assess whether settings comply with the rule

## 2. Remedial Actions

- Based on findings of the assessment, what will providers need to do to be in compliance?

## 3. Outreach and Engagement

- Activities to communicate draft Statewide Transition Plan
- Includes seeking input from stakeholders such as individuals receiving services, providers, advocates, and parents

# Assessment

- Systemic Review
  - Michigan's assessment of the extent to which its standards, rules, regulations, or other requirements comply with the home and community-based settings requirements
  - A description of the Michigan's oversight process to ensure continuous compliance

# Assessment

- Site-Specific Review
  - Michigan will assess individual sites to determine which are/are not in compliance with the federal standard
  - Michigan may conduct specific site evaluations through standard processes such as licensing reviews, provider qualification reviews, support coordination visit reports, etc.

# Assessment

- Develop and administer assessments of individual sites
  - Habilitation Supports Waiver - Assessed by participants, providers, and Pre-Paid Inpatient Health Plans
  - MI Choice - Assessed through the statewide assessment, will partner with waiver agents
  - MI Health Link - Assessment conducted by the Integrated Care Organizations



# Remedial Strategy

- Describes actions that Michigan proposes to assure compliance with the home and community-based services settings requirements from the federal government including:
  - Updating State of Michigan policies, procedures, standards, contracts as necessary
  - Ongoing monitoring of compliance
  - Developing statewide protocols for site specific reviews

# Outreach and Engagement

- Public Comment and Tribal Notice
- Comment for a 30-day period before the Statewide Transition Plan is submitted to the Centers for Medicare and Medicaid Services for approval
- Public input process
  - Method of gathering public input on the Statewide Transition Plan
  - Review public comment for potential incorporation into the Statewide Plan.

# Additional Resources

# Resources

## Michigan Department of Community Health Website

1. Go to [www.michigan.gov/mdch/](http://www.michigan.gov/mdch/)
2. Click on “**Health Care Coverage**” tab on the left hand side of the page
3. Click on “**Home and Community-Based Services Program Transition**” link in the middle of the page

# Resources

The Centers for Medicare and Medicaid Services has a website with all of their materials, guidance, and the toolkit. They update this webpage as new materials are developed so watch the site regularly.

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

or search for “CMS HCBS toolkit”

# Resources

1. Go to [www.medicaid.gov](http://www.medicaid.gov)
2. Click on “**Medicaid**” in the aqua colored bar at the top
3. Select “**By Topic**” from the drop down menu
4. Click on the link for “more information...” in the section titled “**Long-Term Supports & Services**”
5. On this page, the link to “**Home & Community-Based Services**” is on the right column. Click that link to get to the page with all the materials the Centers for Medicare and Medicaid Services posts